

REMARKS

Claims 28-33 and 36 have now been canceled without prejudice. Claims 1-27, 34, 35, 37, 38, 39, 41 and 43 are currently pending and remain in the application. Claims 44-161 have been withdrawn from consideration pursuant to the prior restriction requirement.

In the Official Action of April 22, 2003, claims 1-39, 41 and 43 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner objects to the use of the term "sacrificial", as used to describe the filler, as being subjective. This ground of rejection is traversed.

Applicants respectfully submit that the term "sacrificial" is not subjective or vague, and can be readily understood by one of ordinary skill in the art. This term is used in a functional sense, and is intended to distinguish those fillers which can be readily removed from the pre-cured silicone structure, from those which cannot. See pages 2 and 3 of the specification, which describe the qualities necessary to select a suitable sacrificial filler. For instance, the sacrificial filler should not be reactive with the silicone rubber, it should be soluble in a solvent to permit removal, it should be stable at the curing temperature of the rubber, and it should be relatively inexpensive. See page 2 of the specification. Other filler materials which do not meet this criteria would not be suitable for use in the invention. Accordingly, applicants believe that the term "sacrificial" is well delineated in the specification, both in terms of selection criteria and specific examples, and is therefore neither vague nor ambiguous.

Claims 1-7, 11, 15, 16, 25-36, 41 and 43 have been rejected under 35 U.S.C. 102(b) as being anticipated by Fuller (PCT WO 97/08291, USP 6,444,459, or USP 6,130,080). This ground of rejection is traversed.

Claim 1 has now been amended to incorporate the features of canceled claim 36. As amended, claim 1 now requires that the silicone rubber article is formed by as a result of mixing the sacrificial filler with the silicone rubber precursor, curing the mixture at a temperature below

180°C, and removing the sacrificial filler to form a porous silicone rubber article. This process is neither taught nor suggested in the cited references.

The Fuller patent documents describe silicone rubber coatings applied to the interior surfaces of glass or polystyrene roller bottles. The liquid silicone rubber coating can include salt particles, which when removed, create cratered or pitted surfaces on the inside of the roller bottle. The Fuller documents do not describe the mixing of a silicone rubber material with a sacrificial filler.

In contrast to the Fuller references, the present invention is directed to articles prepared from silicone rubber such as depicted in Figure 4 of the present application. These articles are three-dimensional structures which are substantially different from the coatings described in the Fuller references. There is no disclosure in the Fuller references that the filler can be mixed with a precursor silicone rubber material to provide porous silicone rubber articles as claimed in the present application.

Claims 8-10, 12-14, 17-24 and 37-39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller (PCT WO 97/08291, USP 6,444,459, or USP 6,130,080), in view of Fuller et al. (USP 5,998,185). This ground of rejection is also traversed.

The rejected claims are all ultimately dependent on claim 1 which has been amended as discussed above. The cited references, taken either singly or in combination, fail to teach or suggest the present invention for the reasons set forth above in traversing the anticipation rejection. Accordingly, this ground of rejection should also be reconsidered and withdrawn.

Claims 1-39, 41 and 43 also stand rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,444,459 B1 or U.S. Patent No. 6,130,080. The Examiner has taken the position that the claims of the present invention are obvious over the methods claimed in the cited patents.

Applicants would be prepared to file a terminal disclaimer to overcome the obviousness double patenting rejection should the examiner agree with applicants that the claims are otherwise in proper condition for allowance.

In view of the foregoing, the claims of this application are now believed to overcome all remaining rejections, and to be in condition for allowance. Accordingly, reconsideration and 9253371-1

withdrawal of the rejections is solicited, and allowance of the remaining claims of this application, are requested.

Respectfully submitted,

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